

EXHIBIT 1

INTRODUCTION

Respondent David E. Gunn was an unsuccessful candidate for Superior Court Judge, Butte County, in the 2000 general election. Respondent Friends of David Gunn (the “Committee”) was Respondent Gunn’s controlled committee established to support his candidacy in that election.

This case arose from an audit of Respondent Committee by the Franchise Tax Board (“FTB”) for the period January 1, 1999 through December 31, 2000. During the period covered by the audit, Respondent Committee received contributions totaling \$72,647, and made expenditures totaling \$74,227. The FTB found that Respondents failed to maintain records of employer and occupation information for contributors and failed to disclose employer and occupation information on campaign statements, as required by the Political Reform Act (the “Act”).¹

For the purposes of this Stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: Respondents David E. Gunn and Friends of David Gunn failed to maintain records of employer and occupation information for individual contributors of \$100 or more as was necessary to prepare a pre-election campaign statement, filed on October 6, 2000, for the reporting period July 1, 2000 through September 30, 2000, in violation of section 84104.

COUNT 2: Respondents David E. Gunn and Friends of David Gunn failed to disclose employer and occupation information for individual contributors of \$100 or more on a pre-election campaign statement, filed on October 6, 2000, for the reporting period July 1, 2000 through September 30, 2000, in violation of section 84211, subdivision (f).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish these purposes of disclosure.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

A. Duty to File Campaign Statements

Section 82013, subdivision (a) includes within the definition of “committee” any person or combination of persons who directly or indirectly receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year. This type of committee is commonly referred to as a “recipient committee.” Under section 82016, a recipient committee that is controlled directly or indirectly by a candidate is a “controlled” committee.

1. Duty to File Pre-election Statements

Section 84200.5, subdivision (a) requires that candidates and their controlled committees being voted upon during an even-numbered year in a statewide general election must file pre-election campaign statements in accordance with sections 84200.7 and 84200.8.

Section 84200.7 provides that for a November election in an even numbered year, a first pre-election statement shall be filed no later than October 5, for the reporting period ending on September 30.

B. Duty to Disclose Occupation and Employer Information for Contributors

Section 84211 prescribes the required contents of campaign statements that must be filed by candidates and committees. Each campaign statement must include specific information about each contribution of \$100 or more. For each contribution of \$100 or more received by a candidate or recipient committee during a reporting period, the campaign statement for that reporting period must provide descriptive information, including: the full name of the person who made the contribution; the person’s street address; the person’s occupation; the person’s employer, or if self-employed, the name of the person’s business; and the date and amount for each contribution received in the reporting period. (Sec. 84211, subd. (f)(1)-(5).)

C. Duty to Maintain and Retain Campaign Records

To ensure accurate campaign reporting, section 84104 imposes a mandatory duty on each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills and receipts that are necessary to prepare campaign statements and to comply with the campaign reporting provisions of the Act. This requirement, as interpreted by regulation 18401, subdivision (a), includes a duty to maintain detailed information and original source documentation for all contributions and expenditures. Under regulation 18401, subdivision (a)(3)(A), for contributions received of \$100 or more, original source documentation includes the occupation and employer information of the contributor.

Regulation 18401, subdivision (b)(2), requires the candidate and the committee treasurer to retain the above described campaign records for four years following the date that the campaign statement to which they relate is filed.

SUMMARY OF THE FACTS

Respondent Gunn was an unsuccessful candidate for Superior Court Judge, Butte County, in the 2000 general election. Respondent Committee was formed as a controlled committee on October 21, 1999, by Respondent Gunn to support his candidacy in that election. Respondent Committee terminated effective December 31, 2000.

The FTB initiated an audit of Respondent Committee's finances for the period January 1, 1999 through December 31, 2000. During the period covered by the audit, Respondent Committee received contributions totaling \$72,647, and made expenditures totaling \$74,227. Over the audit period, the FTB found that approximately 63% of the total amount of contributions required occupation and employer information. However, Respondents failed to maintain the records of occupation information for 97% of the contributions, which required such records. Similarly, Respondents failed to maintain the records of employer information for 91% of the contributions, which required such records. Additionally, during the period covered by the audit, Respondent Committee failed to disclose employer information for 85% of contributions, which required such disclosure.

When queried by the FTB auditor about his failure to maintain and retain employer and occupation information for individual contributors of \$100 or more, Respondent Gunn responded that he knew most of the donors and could provide such information to his treasurer. Therefore, he did not request occupation and employer information from his contributors.

COUNT 1

Failure to Maintain Employer and Occupation Information for the Pre-election Campaign Statement, for the Reporting Period July 1, 2000 through September 30, 2000.

Respondents were required by section 84104 and regulation 18401, subdivision (a) to maintain detailed information and original source documentation for each contribution of \$25 or more. Under regulation 18401, subdivision (a)(3)(A), for contributions of \$100 or more, such original source information includes the occupation and employer for any individual contributor. The FTB found, and Respondent Gunn admitted, that he did not maintain occupation and employer information for individual contributors of \$100 or more, as was necessary to prepare a pre-election campaign statement and comply with the Act for the July 1, 2000 through September 30, 2000 pre-election reporting period.

By failing to maintain records of occupation and employer information for individual contributors of \$100 or more, Respondents Gunn and Committee violated section 84104.

COUNT 2

Failure to Disclose Employer and Occupation Information on the Pre-election Campaign Statement, for the Reporting Period July 1, 2000 through September 30, 2000.

Respondent Committee received 30 monetary contributions of \$100 or more from individuals in the July 1, 2000 through September 30, 2000 pre-election reporting period, totaling \$16,572.00. Respondents were required to disclose employer information for 16 of the

30 individual contributors under section 84211, subdivision (f). Respondents did not disclose employer information for 13 of the 16 individual contributors. Additionally, Respondents were required to disclose occupation information for 21 of the 30 individual contributors under section 84211, subdivision (f). Respondents did not disclose occupation information for 4 of the 21 individual contributors.

By failing to disclose occupation and employer information for individual contributors of \$100 or more, Respondents Gunn and Committee violated section 84211, subdivision (f).

CONCLUSION

This matter involves two counts carrying a maximum administrative penalty of Four Thousand Dollars (\$4,000).

The historical penalty range for record-keeping violations is \$750 to \$2,000, per violation. The historical penalty range for failure to disclose required contributor information on a campaign statement is \$1,000 to \$2,000.

Respondent Gunn failed to obtain and retain the requisite employer and occupation information, based upon his perceived familiarity with the contributors. In spite of his purported familiarity with the contributors, he still did not disclose the required employer and occupation information on his committee's campaign statements. Notwithstanding Respondent Gunn's conduct, these appear to have been the errors of a political neophyte, and were not intended conceal from the public the sources of his contributions. Respondents do not have a history of any prior enforcement action being taken against them. Therefore, a penalty in the lower historical penalty range for these violations is appropriate.

The facts of this case, as well as the aforementioned factors, justify imposition of the agreed upon administrative penalty of Two Thousand Dollars (\$2,000).